

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

EUGENE DAVIS, )  
                    )  
                    )  
Movant,           ) )  
                    )  
                    )  
v.                 ) )          No. 4:18-cv-1276-CDP  
                    )  
                    )  
UNITED STATES OF AMERICA, )  
                    )  
                    )  
Respondent.       ) )

**MEMORANDUM AND ORDER**

This matter is before me upon review of the file. Movant Eugene Davis initiated this action on July 20, 2018 by filing a document that appeared to constitute an attempt to file a motion to vacate sentence under 28 U.S.C. § 2255. However, he did not use the proper form as required by the Local Rules of this Court, and important information was omitted. In an order dated August 7, 2018, I directed movant to file an amended motion using the proper form, and return it within twenty-eight days. His response was due on August 28, 2018.

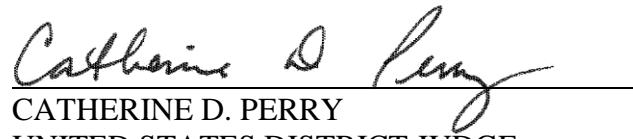
To date, movant has neither filed an amended motion, nor sought additional time to do so. Movant was given meaningful notice of what was expected, he was cautioned that his case would be dismissed if he failed to timely comply, and he was given ample time to comply. Therefore, this action will be dismissed, without prejudice, due to movant's failure to prosecute his case and his failure to comply with my August 7, 2018 Order. *See Fed. R. Civ. P. 41(b); see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (*per curiam*) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result

from failure to do so); *Fitzwater v. Ray*, 352 F. App'x 125, 126 (8th Cir. 2009) (*per curiam*) (district court did not abuse its discretion in dismissing action without prejudice when the *pro se* plaintiffs failed to comply with an order “directing them to file within fourteen days an amended complaint in conformity with Rule 8”).

Accordingly,

**IT IS HEREBY ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

Dated this 24th day of September, 2018.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE